Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

2000 Biennial Regulatory Review --	)	
Telecommunications Service Quality	)	CC Docket No. 00-229
Reporting Requirements	)	

Comments of the Wyoming Public Service Commission

The Wyoming Public Service Commission (WPSC) hereby submits its comments regarding the Notice of Proposed Rulemaking (NPRM) on Telecommunications Service Quality Reporting Requirements. The WPSC is the agency of the State of Wyoming which has jurisdiction to regulate, *inter alia*, the intrastate activities of telecommunications companies serving in Wyoming. As such the WPSC is an interested party in the proceeding.

In its NPRM the Federal Communications Commission (Commission) seeks comments on proposals to streamline the current method of service quality reporting by large local telecommunications companies. In its NPRM, the Commission generally proposes to streamline quality of service reporting, and generally focuses on that reporting that it believes would be best utilized by end-use customers in a competitive market. The Commission proposes to eliminate much of the currently required reporting, proposing to replace many of the more technical reports with less burdensome, more consumer-friendly reporting. The Commission indicates that its actions are in response to the regulatory reform provisions of the federal Telecommunications Act of 1996. (the Act).

The WPSC is concerned about several of the specific proposals contained in the NPRM, and some of these specific concerns will be discussed below. However, we have a greater, overarching concern about the timing of the proposals and the competitive emphasis of the proposals, when we are clearly still early in the transition from monopoly to competitive local exchange markets. Wyoming is an advocate of competition and has been an early proponent of clearing the way for local competitive entry. However, customers and competitors have not yet fully responded to these competitive opportunities. This is the larger concern that will be the primary focus of the remainder of our comments.

This proceeding arises as a result of the Biennial Review of Regulations provisions of the Telecommunications Act of 1996. Specifically, the regulatory reform provisions in Section 402 of the Act state:

> (a) BIENNIAL REVIEW OF REGULATIONS. In every even-numbered year (beginning with 1998), the Commission —
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> (1) shall review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and
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> (2) shall determine whether any such regulation is no longer necessary in the public interest **as a result of meaningful economic competition between providers of such service.** [Emphasis added.]

Thus, it seems that a portion of the review in this proceeding should involve the state of competition in the local market, and whether the time is right for making significant changes. In looking at the Commission's biennial report, *Trends in Telephone Service*, released December 21, 2000, it reports, on page 9-1 that "CLECs provided 12.7 million (or 6.7%) of the approximately 192 million nationwide local telephone lines that were in service to end users." Further analysis of these numbers shows that of the reported end-user lines, only 3% of the residential lines are served by competitive local exchange carriers (CLECs) while more than 17% of the larger businesses, institutional and government lines are served by CLECs. Thus, competition has made very little impact on the residential local exchange market.[1] These modest competitive developments are also not universal. Many local service markets experience almost no competition. Based on such a small portion of the overall local market being served by competitors, it is unclear why the Commission believes that competition in the marketplace should now drive such drastic changes to service quality reporting.

It is also unclear, given the still primarily monopoly nature of the local exchange business, why the Commission would choose to concentrate its proposals on what might be desired by end-use customers, rather than what is needed by state and federal regulators to protect consumers and adequately oversee a monopoly service. The summary of the NPRM indicates that one of the goals of the Commission with its proposal is to "arm consumers with the necessary information to make informed decisions when choosing telecommunications providers." However, there is no information provided to show that the majority of customers have a choice of local providers, especially those customers who live in rural areas. Why would customers living in rural America, much of which is

[1] We are unable to comment on Wyoming's specific competitive numbers, given that *Trends in Telephone Service* withholds the Wyoming CLEC data due to confidentiality. However, we note that 25% of the reported CLEC lines are in just two states: New York and Texas. More than 43% of the reported CLEC lines are reported for just four states: California, Florida, New York, and Texas.

served by price-cap companies without competitive options, want to limit the service quality data that could be used by state and federal regulators to assure telephones will work when the snow melts? It is too soon to narrow the focus of the quality of service reporting to only that desired or needed by customers in a competitive market. There is still a place for more technical reporting.

As does Texas, we find the analogy to the airline industry reporting both curious and troubling. There are many similarities between the current state of airline competition and telecommunications competition, especially when looking at the rural versus urban problem. Specifically, in many towns in Wyoming, there is only once choice of airline carrier, as there is only one choice of telecommunications carrier. However, in those cases, customers care less about whether the airplane will be late, and more about whether it will operate safely and properly. Likewise, network performance reporting continues to be important to Wyoming. The technical reports on items such as trunk blockage, switch downtime, and network outages are still important to us as regulators and as the first entity that customers call when they have trouble with their lines.

These items are also important to the development of a truly competitive environment, given that a large portion of the "competitive" providers are using the networks of incumbent providers. Again referring to the *Trends in Telephone Service*, Table 9-3 shows that about one-third of the CLEC lines provided to end users are CLEC owned, while the other two-thirds are lines acquired under resale or unbundled network element arrangements.[2] Based on the Commission's own statistics, it is important that the incumbent providers continue to report regarding the service quality of their networks, since only a very small fraction of overall customers are served by networks owned by the CLECs.

Certainly, the WPSC does not object to the categories of reporting that the Commission believes would be of interest to end use customers. Many of these are proposed in the NPRM. For example, we believe it is good business practice for a company to keep appointments it makes, and to be willing to admit when it has erred. We also believe that this is the type of data that a good quality provider should already be maintaining, in an easily reportable format. Additionally, we believe that this type of reporting could encourage companies to improve their appointment process and customer service. However, we do not think that replacing the current network performance reporting with this more simplified reporting will encourage incumbent providers to maintain their systems or improve their outage durations. It merely has the potential to divert resources from one internal process to another.

Similarly, we are concerned about the perverse incentives that could be caused by the simplification of trouble reporting. The NPRM itself states at paragraph 19:

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[2] Table 9.3 also shows that the percent of CLEC owned lines decreased slightly between December of 1999 and June of 2000.

> While repeat and subsequent trouble information is useful as a diagnostic tool to regulators, multiple categories of different repair information may be confusing to the average consumer. We seek comment on whether carriers should report only the number of initial trouble reports and number of out-of service troubles occurring within the reporting period, as well as the total number of access lines.

This is a win-lose proposition. Must regulators give up critical information that is currently of great importance for their oversight duties, such as the duration of outages and the frequency of outages, to make the report understandable to the general public? The Commission must develop a way to satisfy both the needs of the customer and the regulator. Perhaps a summary line could be added to the existing report that would satisfy the non-technical reader. Alternatives to eliminating this important information must be considered. The Commission should also consider the fact that, to date, most of the customers who have considered or been offered competitive alternatives are the more sophisticated business and institutional customers. These are customers who have a good working knowledge of the telecommunications industry, and who also have technical experts to rely upon for reading and understanding the reported data. State and federal regulators must not forget that they still represent the vast majority of residential customers and the overall public interest.

At paragraph 29 of the NPRM, the Commission asks commenters to discuss whether ". . .marketplace forces alone are likely to adequately provide incentives to competitors to incumbent LECs to disclose voluntarily information about service quality. . ." We think not. Our experience has been that as the market begins to become even the slightest bit competitive, data becomes more confidential and less public, almost regardless of the nature of the data. While those who have high service quality may be proud of that achievement, there is a great reluctance on the part of providers to show any sign of problem or weakness to regulators, competitors, or customers. Certainly, these high achievers will want to circulate their own praises, but little usable detail is likely to be provided. We see this in the Commission's own reports, where those interested in Wyoming competition are unable to gather information on its existence or non-existence, due to the *withholding of data to maintain confidentiality.* Similarly, we were unable to ascertain the level of development of high-speed lines in Wyoming from reports available on the Commission's website, since the reports generally have withheld this data from general availability. This then, leads us to wonder why the Commission would propose to offer the general public information on the service quality of high speed lines, such as xDSL, when access to the Commission's website does not even allow one to determine if such lines exist in Wyoming.

Comparative data on other providers, whether ILECs or CLECs, is an important aspect of the reporting requirements. Clearly, we do not want competitive providers to be diverted from their primary focus on achieving success in competitive markets, and worry whether mandatory service quality reporting might be perceived as a hindrance. On the other hand, we believe that it is useful, when setting and reviewing service standards, to be able to view the achieved performance of a wide range of local service providers. We encourage the Commission to seek the proper balance between the desires of carriers to be exempted from such reporting requirements and the improvements to customer service and quality standards facilitated by the existence of the comparative data.

At paragraph 39 of the NPRM, the Commission seeks comment on whether interexchange carriers "are able to monitor service quality through operation of their business relationships with incumbent local exchange carriers." Again, we think not. Two concerns arise with the proposal to eliminate certain reports based on the assumptions that they will be available to interexchange providers through other means. First and foremost, it has often been the experience of regulators that if an item is not required for specific business or reporting purposes, that particular record will not be maintained. Thus, there is no guarantee that the information currently provided would even exist in a usable or summary format a year from now if the reporting requirements were eliminated. Second, it appears to us that an interexhange carrier may currently be able to obtain a certain level of information about its own quality of service, but without the reported data, may not know how its quality compares to that offered other providers — including perhaps an affiliate of the incumbent. Thus, it would be difficult to monitor discriminatory service quality practices.

In summary, we are very concerned about the overall proposal of the Commission to move away from technical reporting standards toward standards that are more "consumer-friendly." We do not see a clear justification to make this move at this time, because very few residential customers are served by competitors, and because the local exchange market is dominated by monopoly providers. Meaningful economic competition does not exist in most of the United States, and the proposed simplifications are not yet either required or appropriate. Too much meaningful data used by regulators of local telecommunications service would be lost with the wholesale adoption of the Commission's proposals.

Respectfully Submitted this 12th day of January, 2001.

Steve Ellenbecker Chairman	Steve Furtney Deputy Chairman	Kristin Lee Commissioner